

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of	)	
THE MART TRUST against	)	Case No. U-16500
DTE Energy Company	)	
_____	)	

**NOTICE OF PROPOSAL FOR DECISION**

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on May 6, 2011.

Exceptions, if any, must be filed with the Michigan Public Service Commission, P.O. Box 30221, 6545 Mercantile Way, Lansing, Michigan 48909, and served on all other parties of record on or before May 27, 2011, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before June 10, 2011.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

STATE OFFICE OF ADMINISTRATIVE  
HEARINGS AND RULES  
For the Michigan Public Service Commission

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Theresa A. Sheets  
Administrative Law Judge

May 6, 2011  
Lansing, Michigan

**STATE OF MICHIGAN**  
**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the complaint of	)	
THE MART TRUST against	)	Case No. U-16500
DTE Energy Company	)	
_____	)	

**PROPOSAL FOR DECISION**

The Proposal for Decision in this matter was issued orally from the bench. A copy of the transcript is attached hereto which reflects the Proposal for Decision. See attached.

OFFICE OF MICHIGAN ADMINISTRATIVE  
HEARING SYSTEM  
For the Michigan Public Service Commission

\_\_\_\_\_  
Theresa A. Sheets  
Administrative Law Judge

May 6, 2011  
Lansing, Michigan  
DR

1 (Off the record from 2:38 to 2:52 p.m.)

2 JUDGE SHEETS: We're on the record. I  
3 have heard DTE's motion for directed verdict and  
4 arguments supporting that motion. I have heard the  
5 arguments by Staff counsel in support of the motion, and  
6 I have also heard Mr. Chaban's response in opposition to  
7 the motion for directed verdict.

8 After hearing the Complainant's case and  
9 having heard the motions and all arguments in support of  
10 and in opposition to that motion, I find as follows: The  
11 Complaint in this matter doesn't deny the sums owed to  
12 DTE. The issue is one sole issue, which is whether DTE  
13 should be compelled to accept \$700 in State Emergency  
14 Relief funds. This one issue is also supported in the  
15 Complainant's motion in limine, which indicates the sole  
16 issue of whether Respondent violated 460.148 in refusing  
17 to accept the \$700 payment.

18 The evidence presented by Ms. Gray in  
19 this matter indicates that it's actually State policy to  
20 require full payment or work out a payment plan before  
21 the funds from the State Emergency Relief are approved.  
22 In fact, she went further to say that that requirement  
23 appears to be, to relate to those who are not current at  
24 least six months. So it's fair to assume, based on the  
25 documents that have been presented and the evidence

1 presented that the Complainant was at least six months  
2 delinquent at that time, and thus was required to pay the  
3 full balance beyond the State Emergency Relief funds  
4 before those funds would be approved.

5 All exhibits entered in this matter  
6 indicate that DTE did not even have an opportunity to  
7 accept the \$700 in State Emergency Relief because the  
8 Complainant never fulfilled his obligation to make his  
9 part of the payment.

10 The fact that this matter is or is not  
11 under appeal with DHS is outside the scope of whether or  
12 not DTE should accept payment. At this time there is no  
13 payment to accept, and therefore I am limited to the  
14 information and evidence that has been presented in this  
15 action. The DHS appeal is a separate matter for DHS to  
16 handle with the Complainant.

17 At this time I find that there was no  
18 evidence presented that DTE denied accepting funds.  
19 There is no evidence that DTE failed to abide by the  
20 rules in terms of providing notice to Mart Trust of  
21 options for emergency relief, as no evidence was  
22 presented by the Complainant in support of those  
23 allegations. And those allegations were also not set  
24 forth in the Complaint and no relief was requested in  
25 terms of that allegation. There is no evidence that Mart

1 Trust itself was ever approved because Mart Trust didn't  
2 pay their part of the obligation.

3 Complainant's counsel indicates that Mart  
4 Trust, on the documents that were not admitted into  
5 evidence but were part of the argument in opposition to  
6 the motion for directed verdict, indicates that Mart  
7 Trust was required to contact DTE before working out a  
8 plan with DTE. But DHS clearly in its documents told  
9 Mart Trust what was required. He was required to pay  
10 those sums before he got the emergency relief. That  
11 would have given Mart Trust ample time to go to DTE and  
12 work out an arrangement before that denial occurred.  
13 There has been no evidence presented in this proceeding  
14 that Mart Trust ever contacted DTE to arrange payments or  
15 to do anything to save what Ms. Gray called a pseudo  
16 award in this matter.

17 As a side matter, Mart Trust didn't apply  
18 for the State Emergency Relief. It was Mr. Tindall in  
19 his individual capacity that applied for that relief.  
20 That part of it, that part of this matter is not  
21 controlling in my decision, but it also is another  
22 element that I did consider. For those reasons stated, I  
23 am granting directed verdict to DTE Energy.

24 MR. CHABAN: For clarification, if I were  
25 to submit evidence of the trust certificate and statutes

1 saying that the trust and Mr. Tindall are identical, that  
2 would not change your decision, correct?

3 JUDGE SHEETS: That would not control my  
4 decision, no.

5 Is there anything further for the record  
6 today?

7 MR. BEACH: Nothing from the Staff, your  
8 Honor.

9 JUDGE SHEETS: O.K. Thank you very much.  
10 Everyone have a great day.

11 MR. RHODES: Thank you.

12 MR. CHABAN: Thank you.

13 MR. BEACH: Thank you, your Honor.

14 (At 3:00 p.m., the record was closed.)

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